

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LOUIS SAUNDERS,	:	CIVIL ACTION
	:	
	:	
vs.	:	
	:	
SUPT. TENNIS, ET AL.	:	
	:	NO. 06-3420

Gene E.K. Pratter, J. **MEMORANDUM AND ORDER** December 15, 2006

Petitioner Louis Saunders filed a Petition in this Court seeking release from state custody pursuant to Federal Rule of Civil Procedure 60(b).¹ Petitioner claims that prison conditions prevented him from properly pursuing his previous habeas corpus petition. That petition was docketed at 03-CV-5411. Petitioner’s previous habeas petition was denied because the Court found that it was time-barred and that the doctrine of equitable tolling did not apply.

In his current Rule 60(b) Petition, Petitioner argues the Magistrate Judge’s Report and Recommendation was incorrect in that it notes that “Petitioner makes no showing that he was prevented from filling out the standard habeas form which is freely available at all Pennsylvania correctional institutions, and from sending the form to this Court to protect his rights in both the state and federal courts within one year of his sentence becoming final” Report and Recommendation 12-13. Specifically, Petitioner’s Petition alleges that the prison library where

¹ Specifically, Petitioner moves for the Court to relieve him from the Court’s previous judgment based on the “catch-all” provision of Rule 60(b). This provision states:

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc. On motion and upon such terms as are just, the court may relieve a party or a party’s legal representative from a final judgment, order, or proceeding for . . . (6) any other reason justifying relief from the operation of the judgment.

he was incarcerated lacked the proper habeas forms for him to file, and that conditions in the prison library were constitutionally defective in that the library did not have access to Lexis computer research facilities. However, Petitioner did file the correct forms in his prior action at 03-CV-5411, albeit not within the statutory time-frame, and the dismissal of that action was not prompted by any form-related problem other than with respect to timeliness. With respect to this action, relief under Rule 60(b) is not appropriate on the basis of claims involving prison conditions.

Accordingly, this 15th day of December, 2006, it is hereby **ORDERED** that Petitioner's application for relief pursuant to Federal Rule of Civil Procedure 60(b) is **DENIED**. It is **FURTHER ORDERED** that the Clerk of the Court shall mark this matter as **CLOSED** for all purposes, including statistics.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge